

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

ROBERT BARRETT,

Plaintiff,

v.

Civil Action No. 5:22-CV-145
Judge Bailey

**NORTHERN REGIONAL JAIL,
JOHN DOE, MICHAEL TUSTIN,
MARK TUCKER, and TYLER BLACKBURN,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

The above-styled case came before this Court for consideration OF United States Magistrate Judge James P. Mazzone's Report and Recommendation [Doc. 18], filed on August 15, 2022. Therein, Magistrate Judge Mazzone recommends that defendants Michael Tustin, Mark Tucker, and Tyler Blackburn be dismissed with prejudice. [Doc. 18 at 6]. Further, the magistrate judge recommends that the complaint shall remain as to defendants Northern Regional Jail and John Doe. See [Id.].

This Court is charged with conducting a *de novo* review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. ***Thomas v. Arn***, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C.

§ 636(b)(1) waives the right to raise those objections at the appellate court level. ***United States v. Schronce***, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984). No objections have been filed to the magistrate judge's report and recommendation. In fact, plaintiff refused service altogether. See [Doc. 20].

A review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation [Doc. 18] is **ORDERED ADOPTED**, and defendants Michael Tustin, Mark Tucker, and Tyler Blackburn are **DISMISSED WITH PREJUDICE**. The Complaint shall remain as to the following defendants: Northern Regional Jail and John Doe.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: September 6, 2022.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE